

Possible remedies for incorrect procedure used by contracting authority in public procurement

Abstract

The aim of the diploma thesis is to provide analysis of incorrect procedures of contracting authority in public procurement and possible remedies. Particularly from the position of the contracting authority itself and partially from the position of the economic operator, who is able to initiate corrective measures through the institutes of protection against irregular practices of contracting authority. The submitted thesis also deals with certain interpretative problems of the contemporary legislation of public procurement, which may be directly related to the mistakes of the contracting authorities.

The first chapter discusses basic concepts of public procurement law and delineates exemplary conduct of one of the typical types of procurement procedure, namely open procedure. The second chapter deals with frequent mistakes and possible remedies of those mistakes by the contracting authority within the time limit for the submission of tenders. The focus of this chapter is on the procurement documents, its explanation and alteration or supplementation. The third chapter follows the second chapter, because it deals with incorrect procedure used by contracting authorities and possibilities of their remedies out of the time limit for the submission of tenders. These may include incorrect or inappropriate definition of evaluation criteria and qualification conditions by the contracting authority, unlawful exclusion of the participant, or incorrect selection of the selected economic operator. The legislation of public procurement prescribes the contracting authority's obligation to adopt necessary and reasonable corrective measures in such cases. The fourth and the last chapter is devoted to the aforementioned protection possibilities of economic operators against irregular practices of contracting authorities, not only during the procurement procedure, but also in administrative procedure and using the instruments of administrative judicial system. The submitted thesis also mentions certain possible prevention procedures that can be used by the contracting authority.

The diploma thesis is based on effective legal regulation of public procurement, which is sometimes compared with the former regulation of public procurement, and both domestic and foreign legal literature. The work also reflects the decision-making practice of the Office for the Protection of Competition, Czech courts and the Court of Justice of the European Union, which has a significant impact on public procurement.

Klíčová slova: corrective measures, public procurement, procurement procedure